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10/668,824

09/22/2003

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EXAMINER

PARRA, OMAR S

ART UNIT

PAPER NUMBER

2623

NOTIFICATION DATE

DELIVERY MODE

09/12/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/668,824

Applicant(s)

GRANDY ET AL.

Examiner

Omar Parra

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-75 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **1-2, 9-10 and 17-18** are rejected under 35 U.S.C. 102(e) as being anticipated by Sie et al. (hereinafter 'Sie', Pub. No. 2003/012595).

Regarding claims 1, 9 and 17, Sie teaches a computer system (with respective method and computer readable medium) of delivering media comprising:

a database module configured to store a record containing user information associated with a user of a client system and to store information corresponding to one of a plurality of media subscription levels for the record (**Subscriber database 116, fig. 1 or [0045] lines 11-17**);

a communication module configured to receive a media request from the client system, and to deliver the media selection to the client system (**Viewing Subscriber Management system 114, [0060] and [0062]**); and

a control module configured to determine whether the user qualifies to receive the media selection according to the one of the plurality of media subscription levels **(Subscriber management system 114 or [0045]-[0046], [0060])**.

Regarding claims 2, 10 and 18, Sie teaches a computer system (with respective method and computer readable medium) of delivering media, further comprising offering the media subscription level to the user if the user does not qualify to receive the media selection **([0076])**.

3. Claims **1, 3-30, 34-39, 40,41,43-51, 53-56, 58 and 60,62-67** are rejected under 35 U.S.C. 102(e) as being anticipated by Murphy (Patent No. 6,564,380).

Regarding claims 1, 9 and 17, Murphy teaches a computer system (with respective method and computer readable medium) of delivering media comprising:

a database module **(Local Video PoP servers 110 and Master server 100, Fig. 1)** configured to store a record containing user information associated with a user of a client system **(A user is assigned a passcode or code that identifies the user for after having logged in the server and having paid for requesting services . This pass-code is also sent to the PoP server for authenticating a requesting client – col. 10 lines 38-51; col. 11 lines 19-55; col. 16 lines 12-28. Given that this pass-code can be active for days or per sessions, it is inherent that it is stored at the PoP server for user authentication at different times; and since a user logs on to**

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Master Server, it is also inherent that it keeps information about the user for the logging in) and to store information corresponding to one of a plurality of media subscription levels for the record (Master Authorization List keeps a list of different levels of service subscriptions, col. 12 lines 64-col. 13 line 26 or Fig. 6);

a communication module configured to receive a media request from the client system, and to deliver the media selection to the client system **(Master server receives the content request and sends the content through PoP servers PoP servers 110 through Video Server 310, and Propagation server 320, col. 10 line 52-col. 11 line 4); and**

a control module configured to determine whether the user qualifies to receive the media selection according to the one of the plurality of media subscription levels **(PoP server for authenticating a requesting client –col. 10 lines 38-51; col. 11 lines 19-55; col. 16 lines 12-28).**

Regarding claims 3, 11, 19, 27, 37 and 48, Murphy teaches computer system (with respective method and computer readable medium), wherein the media selection is delivered to the client system via the Internet **(col. 7 lines 7-16).**

Regarding claims 4, 12, 20, 26, 36 and 47, Murphy teaches a computer system (with respective method and computer readable medium), further comprising maintaining a media player for the user for viewing the media selection **(col. 6 lines 39-51 or browser based display for live content, col. 14 line 47-col. 15 line 24).**

Regarding claims 5-6, 13-14 and 21-22, Murphy teaches a computer system (with respective method and computer readable medium), further comprising modifying the media player according to the subscription level (**The user can view the content at different speeds for different subscription levels, col. 13 lines 1-4 or col. 10 line 52- col. 11 line 4. If premium rate is paid, user can use camera control buttons are accessible at the viewer display, col. 13 lines 20-26; col. 14 line 47-col. 15 line 24).**

Regarding claims 7, 15 and 23, Murphy teaches a computer system (with respective method and computer readable medium), further comprising enabling the user to select one or more media offerings included in the subscription level (**col. 12 lines 24-63).**

Regarding claims 8, 16 and 24, Murphy teaches a computer system (with respective method and computer readable medium), further comprising enabling the user to alter the one or more media offerings included in the subscription level (**col. 12 lines 54-63).**

Regarding claims 25, 35 and 46, Murphy teaches a computer system (with respective method and computer readable medium) for controlling access to a selected feature of a software application on a client computer, the computer system comprising:

a control module configured to launch the software application with a subset of available features enabled, wherein the subset does not include the selected feature **(Selecting a video stream will open up a viewer to watch the video with all the regular well-known trick play buttons of the players used, col. 6 lines 35-51. However, only when live content is selected, a control program is optionally launched to control the live-video capturing cameras, col. 14 line 47-col. 16 line 62); and**

an interface module configured to prompt a user to sign in to a server that can be coupled to the client computer via a network, and enabling the selected feature in response to a successful sign in **(A requesting user has to log on to the Master Server in order to get access to any of the levels of subscriptions, and especially to the 'premium' service of remote controlling the video cameras, col. 11 lines 19-55; col. 13 lines 20-26; col. 14 line 47-col.16 line 62).**

Regarding claims 28, 38 and 49, Murphy teaches a computer system (with respective method and computer readable medium), wherein the sign in also controls the user's access to media content that is selectively provided to the client computer on a subscription basis **(Signing in and authenticating the user through with the passcode, let's to recognize the user that requested the premium rate and therefore, the camera control feature; or any other subscription level and their respective content).**

Regarding claims 29, 40 and 50, Murphy teaches a computer system (with respective method and computer readable medium), wherein the selected feature is a graphic equalizer (**Fig. 7 or col. 15 lines 1-24, where the controls modulate or customize the video to user's preference**).

Regarding claims 30, 41 and 51, Murphy teaches a computer system (with respective method and computer readable medium), wherein the selected feature is a screen selection mode that permits a user to vary a screen size for a multimedia presentation (**col. 15 lines 12-15 or col.13 lines 1-4**).

Regarding claims 32, 43 and 53, Murphy teaches a computer system (with respective method and computer readable medium), wherein the control module is further configured to receive an indication that the user has signed-off from the remote server, and to disable access to the selected feature in response to the sign off (**When the price is based on the length of the feed or based on time of using the service –col. 13 lines 1-26, it is inherent that the server has to know when a user logs off to stop the service**).

Regarding claims 33, 44 and 54, Murphy teaches a computer system (with respective method and computer readable medium), wherein the access to the software feature is controlled each time the software application is launched (**col. 13 line 47-col. 15 line 63**).

Regarding claims 34, 45 and 55, Murphy teaches a computer system, wherein the control module is further configured to receive an indication from the server that is provided in response to the sign in, and to control the enabling of the selected feature in response to the indication, in order to enable the selected feature in response to a successful sign **(When a user logs on to the Master Service, a message for the subscription is sent to the PoP server, which controls and enables the user that has a passcode result of the user's subscription of services at master server, col. 11 lines 14-55).**

Regarding claims 56, 58 and 60, Murphy teaches a computer system (with respective method and computer readable medium)

providing a software package in multiple tiers, the computer system comprising: a single executable program comprising multiple tiers of a software package **(When regular on demand video is requested, a regular video player is used. On the other hand, when live video is requested, especially with camera remote control, an especial viewer with new buttons is run, col. 6 lines 35-51, col. 14 lines 45-col. 16 line 63);**

a control module configured to permit a first tier of the software package to function, wherein the first tier includes fewer features than a second tier of the software package, to disable the second tier of the software package unless a condition is satisfied, and to enable the second tier of the software package when the condition is

satisfied (**The first tier, the regular player, does not contain the extra camera control buttons that are received when paying for premium rate, col. 13 line 20-26, col. 14 line 45-col. 15 line 24**) ; and

a communication module configured to communicate with a remote server via a network if the first condition is satisfied (**The requesting party is able to connect to a PoP server to receive the content, if payment was made, through the internet, col. col. 11 lines 14-55**).

Regarding claims 62, 64 and 66, Murphy teaches a computer system for controlling playback of media content, the computer system comprising:

a communication module configured to receive a request for subscription media content (**Master server receives the content request and sends the content through PoP servers PoP servers 110 through Video Server 310, and Propagation server 320, col. 10 line 52-col. 11 line 4**);

a control module configured to determine whether sign-in information has been provided to enable access to the subscription media content (**The Master server logs in users for them to see and request content, col. 11 lines 19-26**); and

an interface module configured to provide a sign-in process in response to an unsuccessful sign in to enable the access to the subscription media content, to retrieve the subscription media content in response to a successful sign in, and to initiate playback of the subscription media content in response to the successful sign in, without receiving another request for the subscription media content (**After logging in the**

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Master server and selecting the content, the user receives the content and plays it with the media player without requesting for it a second time, col. 6 lines 39-51, col. 11 lines 14-55).

Regarding claims 63, 65 and 67, Murphy teaches a computer system, wherein the request from the user is a selection of a hyperlink that corresponds to the subscription media content **(It tremendously well known in the art of searching and requesting content on the internet that after content queries, the results are presented in a hyperlink manner for convenience for the user to select it with just one click)**

4. Claims **68 ,69, 71, 73 and 74** are rejected under 35 U.S.C. 102(e) as being anticipated by LaRocca et al. (hereinafter 'LaRocca', Patent No. 6,314,572).

Regarding claim 68, LaRocca teaches a method of allocating subscription fees for media content, the method comprising:

providing a first fee to a media content provider in response to a first subscription from a first user, where the first subscription includes only a subscription to the media content provider, where the media content provider provides access to subscription-only content over a computer network **(A user pays a first fee for base service, that**

would make him/her being able to access content for that base service after authentication, col. 3 lines 30-46); and

providing a second fee to the media content provider in response to a second subscription from a second user, where the second subscription includes a plurality of subscriptions to a plurality of media content providers that includes the media content provider, where the second fee is different from the first **(A second fee is paid for extended services that let the user access premium channels, packages of channels, etc. The number of channels or media content providers that the user can access includes the base services, col. 3 lines 30-62, col. 10 lines 16-col. 11 line 43, col. 12 line 38- col. 13 line 35).**

Regarding claim 69, LaRocca teaches a method of allocation subscription fees for media content, wherein the second fee is higher than the first fee **(It is inherent that the new –second- fee will be higher than the first one since from that moment on the user will have to pay for the base plus the extended service).**

Regarding claim 71, LaRocca teaches a method, wherein the computer network transmits media content that is in a packet format **(col. 6 lines 11-25).**

Regarding claim 73 and 74, LaRocca teaches a method, wherein the media content provider provides a media content and wherein the media content is audio and

video content (**col. 3 lines 30-61**).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims **31, 42 and 52** are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (Patent No. 6,564,380) in view of Holtz et al. (hereinafter 'Holtz', Patent No. 6,760,916).

Regarding claims 31, 42 and 52, Murphy teaches all the limitations of the claims they depend on. On the other hand, Murphy does not explicitly teach that the selected feature to be an absence or reduction in advertisements.

However, in an analogous art, Holtz teaches a system that provides content on demand from Internet, in which a fee is paid as a premium fee for removing the advertisement off the content (col.44 line 55-col. 45line 12).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Murphy's invention with the feature of providing commercial-free content for the benefit of the content that makes the user viewing experience irritating and at the same time recovering the money that it would have been collected if the commercial was shown, otherwise.

7. Claims **39, 57, 59 an 61** are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy (Patent No. 6,564,380) in view of LaRocca et al. (hereinafter 'LaRocca', Patent No. 6,314,572).

Regarding claims 39, Murphy teaches all the limitations of the claim it depends on. On the other hand, Murphy does not explicitly teach wherein the selected feature is enabled for a sign in that is related to a first subscription that includes a plurality of media content providers, and the selected feature is disabled for a sign in that is related to a second subscription, where the second subscription includes at least one media content provider less than the plurality of media content provider.

However, in an analogous art, LaRocca teaches a subscription system for video on demand in which a premium subscription or feature is not allowed to get by the user if he/she is not subscribed to a basic service (col. 3 lines 30-62, col. 10 lines16-col. 11 line 43, col. 12 line 38- col. 13 line 35).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Murphy's invention with LaRocca's teaching of not letting the user to utilize or subscribe premium services if he/she has not acquired/subscribed to a base service first for the benefit of increasing the content provider's profit.

Regarding claims 57, 59 and 61, Murphy teaches all the limitations of the claims they depend on. On the other hand, Murphy does not explicitly teach that the subscription to a service requires a periodic payment.

However, in an analogous art, LaRocca teaches a system that provides on-demand services in which a user can subscribe to video packages. These services to be renewed need a payment at the end of a time period (i.e. a month), making it a periodic payment subscription (col. 12 line 58-col. 13 line16).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Murphy's invention with LaRocca's teaching of giving the user the opportunity to continue with the service when the time period expires for the benefit of not losing a client after the time period is expired and helping the user not to go through the same subscription process again.

8. Claims **70 and 75** are rejected under 35 U.S.C. 103(a) as being unpatentable over LaRocca et al. (hereinafter 'LaRocca', Patent No. 6,314,572) in view of Murphy (Patent No. 6,564,380).

Regarding claims 70 and 75, LaRocca teaches all the limitations of the claims they depend on. On the other hand, LaRocca does not explicitly teach that the computer network is the Internet and that the content is streamed through it.

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However, in an analogous art, Murphy teaches a system that makes possible to stream or multicast video from a headend to requesting users through the Internet (col. 6 lines 25-51; col. 17 lines 9-40).

Therefore, it would have been obvious to an ordinary skilled in the art to have modified LaRocca's invention with Murphy's teaching of being able to stream internet content and multicast it to users for the benefit of "opening the universe of content for digital video production, digital TV programming, video-on-demand, pay-per-view, etc" (Murphy col. 16 line 64-col. 17 line 8).

9. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaRocca et al. (hereinafter 'LaRocca', Patent No. 6,314,572) in view of Peterka et al. (hereinafter, 'Peterka', Pub. No. 2002/0170053).

Regarding claim 72, LaRocca teaches all the limitation of the claim it depends on. On the other hand, LaRocca does not explicitly teach a method wherein the first fee and the second fee are provided to the media content provider electronically.

However, in an analogous art, Peterka teaches that credit card number is provided as part of the user information and after checking the user is able to get the service, they provide it and charge it ([0072]).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified LaRocca's invention with Peterka's teaching of charging a credit card electronically for the benefit of receiving payment of the service

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immediately and having the user not to use longer processes of payment (writing a check, buying a money order and mail them out).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Parra whose telephone number is 571-270-1449. The examiner can normally be reached on Under Academy Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OP


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